

J. Bellido and K. Bowrey, *Adventures in Childhood: Intellectual Property, Imagination and the Business of Play* (Cambridge University Press, 2022)

Luke McDonagh

The new book *Adventures in Childhood* by Jose Bellido (University of Kent) and Kathy Bowrey (University of New South Wales) brings intellectual property (IP) law analysis to one of the most interesting and contested areas of sociological theory and practice: children at play. It is commonly accepted that 'childhood' is a socialised practice, one that can vary in distinct contexts, from state to state, habitation to habitation, with different norms and age brackets. Meanwhile, many, if not all, parents would acknowledge the significant impact that mass consumerism and widespread advertising have on their children's playtime. Nonetheless, there is much about childish play that remains mysterious. Broadly concentrating on the UK jurisdiction, the authors evaluate the issue of how, perhaps unexpectedly, the norms of intellectual property have come to influence the construction of British childhood. Shedding light on both IP law and consumerism, Bellido and Bowrey take the reader on a fascinating journey, examining the concept of play and drawing out its links with capitalist merchandising, marketing, and branding. Crucially, Bellido and Bowrey connect IP law to the birth of direct marketing of toys to children. The authors do this by weaving together the dual histories of consumption and IP law, including mapping the development of overlapping markets for children's literature and Christmas presents, and documenting the legal practices and norms that emerged as part of this process. In so doing they describe the emergence of a new kind of 'IP thinking' within the entertainment industry, a point that resonates in our own time of IP franchise saturation.

The authors draw equally on legal and cultural histories, focusing on literary and televisual chronicles of the twentieth century. Critically, Bellido and Bowrey show that from the beginning, modern intellectual property merchandising was plagued with

legal and moral quandaries, highlighting the tension between commercial exploitation and childhood innocence. *Adventures in Childhood* is primarily an expository work – providing a riveting account of a cultural-historical period – but the authors do offer some normative considerations, including a concern that the commodification of childhood has sometimes worked against efforts to prioritise the well-being and education of children.

In terms of structure, the book offers a chronology of the commodification of childhood via the marketing of copyright works, such as books, TV and films, and associated products such as toys. The authors begin with the creation of a market for children's literature in Britain in the late 19th and early 20th centuries and they end their period of study in the late 20th century, when the IP franchising and merchandising model had become the norm in the entertainment industry. This takes the reader through a series of chapters on relationship between IP law and the ever-changing habits of gift-giving and childish consumption.

Bellido and Bowrey trace how, from the early 1900s until the 1970s, a growing market for children's goods saw the steady rise and gradual stabilisation of character merchandising via IP law. In addition to use of copyright law to protect books, TV shows and films, it became common to register the names and images of popular characters as trade marks. Successive chapters trace the commercial empires that grew up around disparate characters such as Felix the Cat, Mickey Mouse, Peter Pan, Dr Who, and The Wombles.

In Chapter 1 - 'Commercialisation and the Innocent child' – the authors explore the late-19th century creation of Alice in Wonderland by Charles Dodgson (Lewis Carroll). The authors note that Dodgson wrote his books at a time when authors used copyright to control fan engagement with their fantastic characters. The authors remark:

"Dodgson wanted to be recognised as the author Lewis Carroll, father of the Alice universe. He permitted others to represent his characters and story only with approval. He used copyright to assert his paternity over creative representations of Alice, and he appeared to draw the line over ventures that he judged as potentially diluting the fantasy, such as mass manufactured goods outside of the Victorian artistic creative industries." (p.32)

Hence, although Dodgson approved several different editions of the book, including in the then-innovative picture book format, he was not comfortable with commercial marketing of Alice toys.

In Chapter 2, the authors draw a comparison between the reticent Dodgson and the eager Beatrix Potter, who was much more willing to explore opportunities to exploit her beloved creation: Peter Rabbit. In addition to selling books, Potter displayed a remarkable financial savvy about the commercial merchandising opportunities afforded by the popularity of her characters. In the 1900s Potter even went so far as to register a British industrial design right for the Peter Rabbit figure to try to prevent copycat toys. Subsequently, Potter became frustrated by her inability to prevent the sale of products that were not exact copies, but which still alluded to her creative works, such as 'lookalikes' and toys manufactured abroad. She was stymied by a lack of suitable IP legislation that might have allowed her to exert more stringent control. Bellido and Bowrey indicate that Potter even sought to influence the British trade policy of the day to suit her interests, but she failed in this task (p.65-69). Nonetheless, Potter's innovative merchandising practices blazed a trail for later efforts. As Bellido and Bowrey remark: *"Potter's legacy was to encourage the practice of authorising iterations of popular character designs across an ever-increasing range of 'cultural' goods"* (p.39). The Potter case study reads as a prime example of how Bellido and Bowrey skilfully blend together cultural and legal histories.

My favourite part of the book is contained in chapter 3, which covers Meccano and has the referential title: 'Instructions for a successful boy'. The Liverpool company

Meccano created one of the toy sensations of the early 20th century with their system of interlocking brackets that allowed children to piece together their own toys. Amusingly, the authors begin their account with the story of how in the 1920s the Italian Marxist scholar Antonio Gramsci fretted about his son's usage of his toy Meccano set. In fact, Bellido and Bowrey put Meccano forward as an example of how the subjectivity of childhood can be stimulated and exploited via capitalist and consumerist ideas that draw on idealised family tropes and imagined objects. According to Bellido and Bowrey, from the early 20th century onward the Meccano toy company used patents on its interlocking toy technology to block competition, while utilising trade marks and associated slogans to attract attention and harness the agency of children at play. They argue that it was at this point that IP truly emerged not merely as a protective asset but as a 'constructive vehicle in which intangible properties underpinning the rights are reconfigured, enhanced and actualised through the manner of the circulation in the market and the family' (p. 71). Here the authors make an important point: the value of what we call intangible or intellectual property is closely correlated with the imagination of consumers. Positive brand image in the mind of the key consumers (children) translates to high IP value and, inevitably, wide claims of IP protection against competitors.

In this vein, Meccano's brand activities sought to 'anticipate and constitute' the market (p. 288). This was, as the authors describe, nothing less than a project to create 'The Meccano Boy' (p. 86). However, after the heyday of the Meccano products in the 1930s-1960s, the late 1970s saw the growing importance of linking toy merchandising to specific television and cinema franchises. Children's television programmes such as Dr Who became the site of childhood consumer impulses. The perception of Meccano changed, and its market began to shrink. The rise and fall of Meccano stands as a useful example of how the positive brand image held by one generation of children may not survive to the next generation, as new technologies and franchises emerge.

Chapter 4 illuminates the fascinating story of the commercialisation of 'Felix the Cat' which presaged the more organised strategy used by Disney to commodify their 'Mickey Mouse' character. As the 20th century went on Disney became increasingly aggressive in asserting the exclusive rights provided by intellectual property, protecting their IP in merchandising as a separate asset to the IP in the underlying films and shows. In chapter 5 the authors deepen their study of Disney's practices by providing a case study on Peter Pan. As is well known, before he passed away in 1937 J.M. Barrie assigned the copyright in his work to Great Ormond St. Hospital (GOSH) in London. Bellido and Bowrey relate that the charitable nature of GOSH meant its managers were ill-equipped to exploit the merchandise and franchise opportunities this provided. GOSH did have some success at licensing the performing rights to Peter Pan via a west end production that ran from the 1930s into the 1960s (p.150-155). However, all did not go smoothly. In the 1960s GOSH and The Disney Corporation engaged in rancorous litigation, only ending with a ruling in the English Court of Appeal in 1967. The case concerned conflicting interpretations of what the Barrie copyright bequest entitled the hospital to do with respect to film adaptations of Peter Pan. GOSH and Disney had agreed an initial licensing contract during the 1930s that facilitated the 1953 Disney animated version of Peter Pan, but whether its terms continued to bind the parties thereafter remained unclear. During the 1960s GOSH attempted to license Peter Pan to other, non-Disney producers, who sought to put into pre-production a new Peter Pan film, expected to star Audrey Hepburn. Disney retaliated, claiming that they retained the right to all 'sound' film versions. GOSH won their case, succeeding at both the High Court and Court of Appeal levels; but in the meantime GOSH's alternative film licensing deal collapsed. Bellido and Bowrey argue that this loss of potential income influenced the UK government's later decision to draft the Copyright, Designs and Patents Act 1988 to include a term giving GOSH a special extended right to continue enjoying royalties from commercial publication, performances, adaptations, and broadcasts of Peter Pan even after the copyright expired (P.187).

In chapter 6 Bellido and Bowrey note that a new class of agencies dedicated to the licensing of intellectual property sprang up from the mid-century onward. Even where the precise boundaries of copyright law and trade mark rights were uncertain, agencies pressed ahead to foster lucrative 'official' merchandise deals via contract law. This crystalised the licensing-first approach that has become the norm ever since and paved the way for the corporate cultural 'synergies' so commonplace in the 21st century.

Substantively, this impressive tome offers a weight of material to show that IP law has been influenced, and has been partially constituted, by the effects of mass commodification of cultural products. The book deepens our understanding of how the contingencies and particularities of certain markets affect IP law norms. The authors make a convincing case that while legislative and judicial innovations have played the central role in creating the modern IP licensing system, in the case of the toy industry the law must be viewed within its key site of interaction: childhood play. In so doing the authors themselves make a neat stylistic contribution, namely bringing a sense of playfulness to the subject of IP law, enlivening our understanding of modern merchandising and exploitation of 'characters as brands'.

If there is a deficiency in the book is that it ends too abruptly. There remains much left to tell about this story in the 21st century. Perhaps no example reflects the subject of the book better than the path of Lego, which is referred to all too briefly. Whereas once Lego was primarily a toy company, it now encompasses our post-modern IP franchise era: IP-licensed Lego theme parks, 'brand synergy' tie-ins with Harry Potter and Batman, and a range of blockbuster films. 2023's box office hits 'Barbie' and 'Super Mario Bros' reflect this pattern, as does the ongoing abundance of Marvel movies, TV shows, and of course, toys. The authors may wish to consider a sequel that takes account of these recent developments, including the increasingly blurred boundaries between the brand and the post-modern work of art, and how this raises questions about the relationship between trade mark law and copyright law. But even

with this in mind, Bellido and Bowrey's book stands as an engrossing contextual study of consumerism and IP law practices.